

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STATE FARM GUARANTY INS. CO, et.
als,

Plaintiffs,

v.

TRI-COUNTY CHIROPRACTIC &
REHABILITATION CENTER, PC, et.
als,

Defendants.

Case No.: 2:21-cv-4852-ES-CLW

Civil Action

**DEFENDANTS' ANSWER &
AFFIRMATIVE DEFENSES, JURY
DEMAND**

Defendants, by way of Answer to the Complaint of the Plaintiffs, say:

- 1) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 2) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 3) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.

- 4) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 5) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 6) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 7) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 8) These defendants have insufficient information to determine the veracity of this claim and, therefore, it is denied.
- 9) These defendants have insufficient information to determine the veracity of this claim and, therefore, it is denied.
- 10) These defendants have insufficient information to determine the veracity of all of these claims and, therefore, it is denied.
- 11) These defendants have insufficient information to determine the veracity of this claim and, therefore, it is denied.
- 12) Admitted.
- 13) Admitted.
- 14) Admitted as to adult, owner of Tri-County and Chiro Health, and domicile. Denied as to the remainder of the paragraph.
- 15) Admitted as to licensed chiropractor, adult, and treating patients as employee. Denied as to the remainder of the paragraph.
- 16) Admitted.

- 17) Admitted as to medical doctor, owner and officer of Advanced Spine, state of incorporation and citizenship. Denied as to the remainder of the paragraph.
- 18) Admitted.
- 19) Admitted as to medical doctor, prior owner and officer of Bloomfield, state of incorporation and citizenship. Denied as to the remainder of the paragraph.
- 20) Admitted.
- 21) Admitted as to medical doctor, owner and officer of Primary Medical, state of incorporation and citizenship. Denied as to the remainder of the paragraph.
- 22) Admitted as to licensed chiropractor, minority owner and officer of Advanced Spine, Bloomfield and Primary Medical, state of incorporation and citizenship. Denied as to the remainder of the paragraph,
- 23) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 24) Admitted as to offenses which occurred over two decades prior and well beyond the statute of limitations in the present matter.
- 25) Admitted as to suspension two decades ago. Dr. Rosanias license has since been reinstated and is in good standing at present.
- 26) Admitted as to medical doctor and previous treatment; Dr. Tartaglia has since retired from the practice of medicine. Denied as to the remainder of the paragraph.
- 27) Defendants have insufficient information to determine the veracity of this claim and, therefore, it is denied.
- 28) The statute speaks for itself.
- 29) Denied as to inaccurate summation of the law.
- 30) Denied as to inaccurate summation of the law.

- 31) The statute speaks for itself.
- 32) Denied as to inaccurate summation of the law.
- 33) Denied as to inaccurate summation of the law.
- 34) Denied as to inaccurate summation of CPT requirements.
- 35) The regulation speaks for itself
- 36) Denied as to inaccurate summation of the law.
- 37) Denied as to inaccurate summation of the law.
- 38) The regulation speaks for itself.
- 39) Denied as to inaccurate summation of the law.
- 40) The regulation speaks for itself.
- 41) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 42) Denied as to inaccurate summation of the law.
- 43) Denied as to inaccurate summation of the law.
- 44) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 45) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 46) The regulation speaks for itself.
- 47) Denied as to inaccurate summation of the law.
- 48) The regulations speaks for itself. Denied as to any defendant entity qualifying as a diagnostic office.
- 49) The regulation speaks for itself.
- 50) Denied as to inaccurate summation of the law.

- 51) The regulation speaks for itself.
- 52) The regulation speaks for itself.
- 53) The regulation speaks for itself.
- 54) The regulation speaks for itself and is not cited in its entirety.
- 55) The regulation speaks for itself.
- 56) The statute speaks for itself.
- 57) The statute speaks for itself.
- 58) The statute speaks for itself.
- 59) The statute speaks for itself.
- 60) The statute speaks for itself.
- 61) The statute speaks for itself.
- 62) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
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COUNT ONE

288) Defendants repeat the responses in the prior paragraphs of the Answer.

289) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

290) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

291) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

292) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

293) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

WHEREFORE, Defendants demand judgment dismissing plaintiffs' complaint with prejudice, for attorneys, fees, costs of suit and for any other remedy the court deems just.

COUNT TWO

- 294) Defendants repeat the responses in the prior paragraphs of the Answer.
- 295) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.
- 296) Denied. Defendants leave Plaintiff to their proof on each and every allegation in this paragraph of the complaint.

WHEREFORE, Defendants demand judgment dismissing plaintiffs' complaint with prejudice, for attorneys, fees, costs of suit and for any other remedy the court deems just.

COUNT THREE

- 297) Defendants repeat the responses in the prior paragraphs of the Answer.
- 298) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 299) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 300) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 301) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 302) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

WHEREFORE, Defendants demand judgment dismissing plaintiffs' complaint with prejudice, for attorneys, fees, costs of suit and for any other remedy the court deems just.

COUNT FOUR

- 303) Defendants repeat the responses in the prior paragraphs of the Answer.

- 304) The statute cited speaks for itself.
- 305) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 306) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 307) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

WHEREFORE, Defendants demand judgment dismissing plaintiffs' complaint with prejudice, for attorneys, fees, costs of suit and for any other remedy the court deems just.

COUNT FIVE

- 308) Defendants repeat the responses in the prior paragraphs of the Answer.
- 309) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 310) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.
- 311) Denied. This cause of action has been remanded to No-fault arbitration by prior order of the court pursuant to defendants' motion to dismiss.

WHEREFORE, Defendants demand judgment dismissing plaintiffs' complaint with prejudice, for attorneys, fees, costs of suit and for any other remedy the court deems just.

AFFIRMATIVE DEFENSES

1. This action is barred by the Entire Controversy Doctrine.
3. This action is barred as this court lacks jurisdiction over the subject matter of the claims.
4. This action is barred as it fails to state a claim upon which relief may be granted.
5. This action is barred as there is no private cause of action under the New Jersey Codey

Law and various health care regulations cited by Plaintiffs in their complaint pursuant to the New Jersey Supreme Court decision in Jarrell v. Kaul, A-42-13 (2015); Basil v. Wolf, 193 N.J. 38 (2007), and Appellate Division decision in Healthnet v. Garcia, BER-C-37-06 (11/20/07), *aff'd* No. A-2430-07T3 (N.J. Super. App. Div., Nov. 17, 2009).

6. This action as it concerns contract claims and claims derivative to contract claims are barred based upon binding precedent in Selective ins. Co v. Hudson East Pain, 210 N.J. 597 (2012). This action is barred as to the non-healthcare licensed Defendants as they are not within the class of citizens regulated by the health care statutes and regulations Plaintiffs claim to have been violated.

7. This action is barred based upon mandatory arbitration provisions in Plaintiffs' policies of insurance at issue pursuant to the New Jersey Alternative Procedure for Dispute Resolution Act ("APDRA") §2A:23A-1 to 30. Plaintiffs have arbitrated the claims which formed the underlying basis of this Complaint in mandatory Forthright arbitrations, and failed to appeal and/or vacate the arbitration awards within the proscribed statutory time frame. Plaintiffs are, thus, estopped from pursuing civil litigation on these arbitrable claims. See, Liberty Mutual v. Brunswick Surgical Center, 2008 WL 2776131 (N.J. Super. App. Div. 2008).

8. These claims are barred by the six-year statute of limitations of the New Jersey Insurance Fraud Prevention Act. See, N.J.S.A. 17:33A-7(e).

9. These claims are barred by the six-year statute of limitations in New Jersey applicable to each of the claims set forth in Plaintiffs complaint.

10. These claims are barred as the Plaintiffs have failed to plead fraud with specificity against Defendants in violation of R. 4:5-8(a).

WHEREFORE, Defendants demand judgment dismissing Plaintiffs' Complaint and for attorneys' fees, costs of suit and for such other and further relief as the Court may deem just and equitable.

JURY DEMAND

Defendants demand trial by jury as to all issues herein so triable.

TRIAL COUNSEL DESIGNATION

JEFFREY B. RANDOLPH, ESQ., is hereby designated as trial counsel in the above matter.

CERTIFICATION OF ATTORNEY PURSUANT TO RULE 4:5-1

I hereby certify that to the best of my knowledge, information, and belief, the matter in controversy is not the subject of any other action pending in any court and is likewise not the subject of any pending arbitration proceeding other than No-Fault arbitrations referenced in the complaint pending before Forthright. I further certify that I have no knowledge of any contemplated action or arbitration proceeding which is contemplated regarding the subject matter of this action. I further certify that I am not aware of any other parties who should be joined in this action.

LAW OFFICE OF JEFFREY RANDOLPH, LLC
Attorneys for Defendants

DATED: August 8, 2023

BY: _____
/s/ Jeffrey Randolph
JEFFREY B. RANDOLPH, ESQ.